

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2007-1530-AIR-E TCEQ ID: RN100215417 CASE NO.: 34652
RESPONDENT NAME: FMC Corporation

Page 1 of 2

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: FMC Bayport Texas Facility, 12000 Bay Area Boulevard, Pasadena, Harris County</p> <p>TYPE OF OPERATION: Petrochemical manufacturing plant</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on February 25, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST:</p> <p>TCEQ Attorney/SEP Coordinator: Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768</p> <p>TCEQ Enforcement Coordinator: Mr. Thomas Jecha, Enforcement Division, Enforcement Section 3, MC 149, (512) 239-2576; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171</p> <p>Respondent: Mr. Brian Wimer, Resident Manager, FMC Corporation, 12000 Bay Area Boulevard, Pasadena, Texas 77507</p> <p>CT Corporation System, Registered Agent, FMC Corporation, 350 North St. Paul Street, Dallas, Texas 75201</p> <p>Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Record Review Relating to this Case: August 20, 2007</p> <p>Date of NOE Relating to this Case: August 29, 2007 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>AIR</p> <p>Failure to timely submit the annual compliance certification ("ACC") and associated deviation reports within 30 days after each reporting period. Specifically, the ACC for Federal Operating Permit ("FOP") No. O-02278 and associated deviation report for the period ending February 27, 2007 was not submitted to the TCEQ Houston Regional Office until May 7, 2007. The report for the deviation period ending August 26, 2006 was not submitted until September 28, 2006 [30 TEX. ADMIN. CODE §§ 122.143(4), 122.145(2)(C), and 122.146(2), FOP No. O-02278, General Terms and Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$5,650</p> <p>Total Deferred: \$1,130 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$2,260</p> <p>Total Paid to General Revenue: \$2,260</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:</p> <p>a) Submitted the deviation report for the February 27 to August 26, 2006 deviation reporting period to the Houston Regional Office on September 28, 2006 and submitted the deviation report for the August 27, 2006 to February 27, 2007 reporting period on May 7, 2007. The ACC for FOP No. O-02278 for the February 28, 2006 to February 27, 2007 certification period was submitted to the Houston Regional Office on May 7, 2007; and</p> <p>b) Developed and implemented procedures to ensure that semi-annual deviation reports and annual compliance certifications are submitted within the required timeframes, as documented by a letter dated September 17, 2007 which was received by the Houston Regional Office on September 18, 2007.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP) (See SEP Attachment A).</p>

Additional ID No(s): HG0245H

Attachment A
Docket Number: 2007-1530-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	FMC Corporation
Payable Penalty Amount:	Four Thousand Five Hundred Twenty Dollars (\$4,520)
SEP Amount:	Two Thousand Two Hundred Sixty Dollars (\$2,260)
Type of SEP:	Pre-approved
Third-Party Recipient:	Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program
Location of SEP:	Harris County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent will contribute to Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program in Harris County. The contribution will be used in accordance with the ***Supplemental Environmental Project Agreement between the Houston-Galveston AERCO and the Texas Commission on Environmental Quality***. SEP monies will be used to aid local school districts and area transit agencies in reaching local match requirements mandated by the Federal Highway Administration's ("FHWA") Congestion Mitigation/Air Quality funding program. SEP monies will be disbursed to school districts and transit agencies in need of funding assistance in the Houston-Galveston non-attainment area. Those SEP monies will be used exclusively by the school districts and transit agencies as supplements to meet the local match requirements of the EPA. SEP monies will be used to pay for the cost of replacing older diesel buses with alternative fueled or clean diesel buses. The old buses will be permanently retired and only sold for scrap. The schools and transit agencies will also use the SEP monies to retrofit more buses to reduce emissions. Houston-Galveston AERCO will send the TCEQ verification in the form of paid invoices and other documentation to show that the retrofits were completed. Retrofit technologies include particulate matter traps, diesel particulate matter filters, NOx reduction catalyst technology in combination with diesel particulate filters, and other emission control technologies that are developed and approved by EPA or the California Air Resources Board.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing particulate emissions on buses by more than 90% below today's level and reducing hydrocarbons below measurement capability.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Houston-Galveston Area Council
Houston-Galveston AERCO
P.O. Box 22777
Houston, Texas 77227-2777

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Texas Commission on Environmental Quality
Financial Administration Division, Revenues
Attention: Cashier, MC 214
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision May 25, 2007

TCEQ

DATES	Assigned	4-Sep-2007	Screening	19-Sep-2007	EPA Due	25-May-2008
	PCW	19-Sep-2007				

RESPONDENT/FACILITY INFORMATION

Respondent	FMC Corporation		
Reg. Ent. Ref. No.	RN100215417		
Facility/Site Region	12-Houston	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	34652	No. of Violations	1
Docket No.	2007-1530-AIR-E	Order Type	1660
Media Program(s)	Air	Enf. Coordinator	Thomas Jecha
Multi-Media		EC's Team	EnforcementTeam 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History Enhancement Subtotals 2, 3, & 7

Notes

Enhancement for three NOVs with same or similar violations and four NOVs with dissimilar violations issued to the Plant within the past five years.

Culpability

 EnhancementSubtotal 4

Notes

The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply

 ReductionSubtotal 5

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary	<input type="text"/>
Ordinary	<input checked="" type="checkbox"/>
N/A	(mark with x)

Notes

The Respondent returned to compliance on September 18, 2007.

 Enhancement*Subtotal 6

Total EB Amounts	\$25
Approx. Cost of Compliance	\$500

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7

Final Subtotal

OTHER FACTORS AS JUSTICE MAY REQUIRE

Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty

DEFERRAL

 ReductionAdjustment

Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY

Screening Date 19-Sep-2007

Docket No. 2007-1530-AIR-E

PCW

Respondent FMC Corporation

Policy Revision 2 (September 2002)

Case ID No. 34652

PCW Revision May 25, 2007

Reg. Ent. Reference No. RN100215417

Media [Statute] Air

Enf. Coordinator Thomas Jecha

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	3	15%
	Other written NOVs	4	8%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 23%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for three NOVs with same or similar violations and four NOVs with dissimilar violations issued to the Plant within the past five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 23%

Screening Date 19-Sep-2007 Respondent FMC Corporation Case ID No. 34652 Reg. Ent. Reference No. RN100215417 Media [Statute] Air Enf. Coordinator Thomas Jecha Violation Number <input type="text" value="1"/>	Docket No. 2007-1530-AIR-E <div style="text-align: right;"> PCW <small>Policy Revision 2 (September 2002) PCW Revision May 25, 2007</small> </div>																			
Rule Cite(s) 30 Tex. Admin. Code §§ 122.143(4), 122.145(2)(C), and 122.146(2), Federal Operating Permit ("FOP") No. O-02278, General Terms and Conditions, and Tex. Health & Safety Code § 382.085(b)																				
Violation Description Failed to timely submit the annual compliance certification and associated deviation reports within 30 days after each reporting period. Specifically, the annual compliance certification for FOP No. O-02278 and associated deviation report for the period ending February 27, 2007 was not submitted to the TCEQ Houston Regional Office until May 7, 2007. The report for the deviation period ending August 26, 2006 was not submitted until September 28, 2006.																				
Base Penalty <input type="text" value="\$10,000"/>																				
>> Environmental, Property and Human Health Matrix																				
OR	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <td colspan="3" style="text-align: center;">Harm</td> <td></td> </tr> <tr> <td>Release</td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> <td></td> </tr> <tr> <td>Actual</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td rowspan="2" style="vertical-align: middle;"> Percent <input type="text" value="0%"/> </td> </tr> <tr> <td>Potential</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> </table>		Harm				Release	Major	Moderate	Minor		Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0%"/>	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Harm																			
Release	Major	Moderate	Minor																	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0%"/>																
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>																	
>> Programmatic Matrix																				
	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> <td></td> </tr> <tr> <td>Falsification</td> <td style="text-align: center;">x</td> <td><input type="text"/></td> <td><input type="text"/></td> <td rowspan="2" style="vertical-align: middle;"> Percent <input type="text" value="25%"/> </td> </tr> <tr> <td></td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> </table>		Major	Moderate	Minor		Falsification	x	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="25%"/>		<input type="text"/>	<input type="text"/>	<input type="text"/>					
	Major	Moderate	Minor																	
Falsification	x	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="25%"/>																
	<input type="text"/>	<input type="text"/>	<input type="text"/>																	
Matrix Notes	<div style="border: 1px solid black; padding: 5px; min-height: 40px;"> 100% of the rule requirements were not met. </div>																			
Adjustment <input type="text" value="\$7,500"/>																				
<input type="text" value="\$2,500"/>																				
Violation Events																				
<table style="width: 100%;"> <tr> <td style="width: 40%;"> Number of Violation Events <input type="text" value="2"/> </td> <td style="width: 20%; text-align: center;"> <input type="text" value="365"/> </td> <td style="width: 40%;"> Number of violation days </td> </tr> </table>		Number of Violation Events <input type="text" value="2"/>	<input type="text" value="365"/>	Number of violation days																
Number of Violation Events <input type="text" value="2"/>	<input type="text" value="365"/>	Number of violation days																		
<div style="display: flex; align-items: center;"> <div style="margin-right: 10px;"> <small>mark only one with an x</small> </div> <table border="1" style="border-collapse: collapse;"> <tr><td style="padding: 2px;">daily</td><td><input type="text"/></td></tr> <tr><td style="padding: 2px;">monthly</td><td><input type="text"/></td></tr> <tr><td style="padding: 2px;">quarterly</td><td><input type="text"/></td></tr> <tr><td style="padding: 2px;">semiannual</td><td><input type="text"/></td></tr> <tr><td style="padding: 2px;">annual</td><td><input type="text"/></td></tr> <tr><td style="padding: 2px;">single event</td><td style="text-align: center;">x</td></tr> </table> </div>	daily	<input type="text"/>	monthly	<input type="text"/>	quarterly	<input type="text"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	x	<div style="border: 1px solid black; padding: 5px; min-height: 40px;"> Two single events are recommended. </div>							
daily	<input type="text"/>																			
monthly	<input type="text"/>																			
quarterly	<input type="text"/>																			
semiannual	<input type="text"/>																			
annual	<input type="text"/>																			
single event	x																			
Violation Base Penalty <input type="text" value="\$5,000"/>																				
Economic Benefit (EB) for this violation																				
Statutory Limit Test																				
Estimated EB Amount <input type="text" value="\$25"/>	Violation Final Penalty Total <input type="text" value="\$5,650"/>																			
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$5,650"/>																				

Economic Benefit Worksheet

Respondent FMC Corporation
Case ID No. 34652
Reg. Ent. Reference No. RN100215417
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$500	25-Sep-2006	18-Sep-2007	1.0	\$25	n/a	\$25

Notes for DELAYED costs

Estimated cost to implement procedures to ensure semi-annual deviations and annual compliance certifications are submitted within the required timeframes. Date required is the date the first report was due. Final date is the date corrective actions were completed.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$25

Compliance History

Customer/Respondent/Owner-Operator: CN600128102 FMC Corporation Classification: Average Rating: 2.25
 Regulated Entity: RN100215417 FMC BAYPORT TEXAS FACILITY Classification: Average Site Rating: 0.73

ID Number(s):
 AIR OPERATING PERMITS ACCOUNT NUMBER HG0245H
 AIR OPERATING PERMITS PERMIT 1309
 AIR OPERATING PERMITS PERMIT 2278
 INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXD083570051
 GENERATION
 INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # 30614
 GENERATION (SWR)
 INDUSTRIAL AND HAZARDOUS WASTE PERMIT 50216
 STORAGE
 AIR NEW SOURCE PERMITS PERMIT 6532
 AIR NEW SOURCE PERMITS PERMIT 10329
 AIR NEW SOURCE PERMITS PERMIT 15494
 AIR NEW SOURCE PERMITS PERMIT 19796
 AIR NEW SOURCE PERMITS PERMIT 44717
 AIR NEW SOURCE PERMITS ACCOUNT NUMBER HG0245H
 AIR NEW SOURCE PERMITS PERMIT 52644
 AIR NEW SOURCE PERMITS AFS NUM 4820100094
 AIR NEW SOURCE PERMITS REGISTRATION 79470
 AIR NEW SOURCE PERMITS REGISTRATION 82237
 WATER LICENSING LICENSE 1011336

Location: 12000 BAY AREA BLVD, PASADENA, TX, 77507 Rating Date: 9/1/2007 Repeat Violator: No

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: September 18, 2007

Agency Decision Requiring Compliance: Enforcement

Compliance Period: September 18, 2002 to September 18, 2007

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Thomas Jecha Phone: 512 239 2576

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
 - 1 01/10/2003 (18569)
 - 2 02/12/2003 (24210)
 - 3 03/08/2004 (250537)
 - 4 04/19/2004 (250540)
 - 5 07/09/2004 (280134)
 - 6 07/09/2004 (280274)
 - 7 07/30/2004 (283022)

8	07/30/2004	(282751)
9	07/30/2004	(281841)
10	07/30/2004	(284524)
11	07/30/2004	(285771)
12	07/30/2004	(282814)
13	07/30/2004	(281252)
14	08/06/2004	(286877)
15	08/10/2004	(288397)
16	08/10/2004	(288396)
17	08/10/2004	(288417)
18	08/10/2004	(288616)
19	08/11/2004	(288998)
20	08/12/2004	(289503)
21	09/02/2004	(291868)
22	09/03/2004	(290744)
23	09/09/2004	(291430)
24	12/15/2004	(339833)
25	01/24/2005	(333844)
26	07/07/2005	(399114)
27	07/26/2005	(401661)
28	07/27/2005	(401369)
29	07/28/2005	(402294)
30	08/03/2005	(403154)
31	08/08/2005	(404014)
32	08/10/2005	(403903)
33	08/12/2005	(404756)
34	08/18/2005	(403913)
35	08/18/2005	(405709)
36	08/18/2005	(405790)
37	08/29/2005	(407368)
38	09/06/2005	(418889)
39	09/08/2005	(418668)
40	05/26/2006	(461010)
41	06/09/2006	(457341)
42	06/09/2006	(457303)
43	06/27/2006	(481789)
44	10/05/2006	(510343)
45	10/31/2006	(517410)
46	11/13/2006	(514396)
47	03/20/2007	(543946)
48	03/20/2007	(543753)
49	08/29/2007	(572970)
50	08/31/2007	(566928)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date	05/26/2006	(461010)		
Self Report?	NO		Classification	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F) 5C THC Chapter 382, SubChapter A 382.085(b)			
Rqmt Prov:	PERMIT No. 6532 MAERT			
Description:	Failure to prevent the Solvent Removal System malfunction resulting in unauthorized emissions.			
Self Report?	NO		Classification	Minor
Citation:	30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)			
Description:	Failure to submit initial report within 24 hours from discovery of emissions event.			
Date	06/09/2006	(457303)		
Self Report?	NO		Classification	Moderate
Citation:	30 TAC Chapter 122, SubChapter B 122.143(4) 5C THC Chapter 382, SubChapter A 382.085(b)			
Rqmt Prov:	PERMIT NSR Permit #6532, Special Condition 14 E OP OP O-01309, Special Condition 5			
Description:	Failure to seal open-ended lines containing volatile organic compounds			
Self Report?	NO		Classification	Minor
Citation:	30 TAC Chapter 116, SubChapter B 116.116(b)(1)(A)			

Description:	5C THC Chapter 382, SubChapter A 382.085(b) Failure to report an amendment/alteration to the NSR Permit		
Date	06/09/2006	(457341)	
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 122, SubChapter B 122.143(4) 30 TAC Chapter 122, SubChapter B 122.144(1)(A)		
Rqmt Prov:	5C THC Chapter 382, SubChapter A 382.085(b) OP O-02278, Special Condition #12		
Description:	Failure to to meet record keeping requirements (records of the presence of the pilot) of the Periodic Monitoring Summary.		
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 122, SubChapter B 122.143(4) 5C THC Chapter 382, SubChapter A 382.085(b)		
Rqmt Prov:	PERMIT NSR #19796, Special Condition 2E OP O-02278, Special Condition 13		
Description:	Failure to seal open-ended lines containing volatile organic compounds.		
Date	06/27/2006	(481789)	
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F) 5C THC Chapter 382, SubChapter D 382.085(b)		
Rqmt Prov:	PA Permit No. 6532 MAERT		
Description:	Allowed the gas flow in the vent header to bypass the Solvent Recovery System.		
Date	10/31/2006	(517410)	
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F) 5C THC Chapter 382, SubChapter D 382.085(b)		
Rqmt Prov:	PA TCEQ Permit #6532		
Description:	Failure to prevent the gas flow via the seal legs.		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)		
Description:	Failure to submit the initial notification in a timely manner.		
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 101, SubChapter F 101.201(b)(1)(H)		
Description:	Failure to include the permit number in the final report.		
Date	11/13/2006	(514396)	
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 335, SubChapter A 335.4(1)		
Description:	Failure to prevent the unauthorized discharge of industrial solid waste.		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 335, SubChapter A 335.8(b)[G]		
Description:	Failure to submit documentation to the TCEQ to verify that Tank T-4820 (NOR 016) had been properly closed.		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 335, SubChapter R 335.503[G] 30 TAC Chapter 335, SubChapter R 335.504[G] 40 CFR Chapter 262, SubChapter I, PT 262, SubPT A 262.11[G]		
Description:	Failure to prepare waste classification documentation to demonstrate that hazardous waste determinations and characterizations were performed for all waste streams.		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 335, SubChapter A 335.6(h)		
Description:	Failure to notify the TCEQ of the recycling of the following waste streams: Spent Catalyst from Hydrogen Peroxide Manufacturing Process (01013931), Spent Filters Sent for Precious Metal Recovery, and Waste 150 Solvent (00162031).		
Date	08/31/2007	(566928)	
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 115, SubChapter D 115.352(4) 30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THC Chapter 382, SubChapter D 382.085(b)		
Rqmt Prov:	OP FOP O-01309 Special Condition 4 PERMIT Permit No. 6532 Special Condition 14 E		
Description:	Failure to cap 22 open ended valves containing volatile organic compounds.		
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 115, SubChapter D 115.352(4) 30 TAC Chapter 116, SubChapter B 116.115(c)		

Rqmt Prov: 30 TAC Chapter 122, SubChapter B 122.143(4)
5C THC Chapter 382, SubChapter D 382.085(b)
OP FOP No. O-01309 SC 4
Description: PERMIT Permit No. 6532 Special Condition 14 E
Failure to cap 7 open ended valves containing volatile organic compounds on
January 29, 2007.
Self Report? NO Classification Moderate
Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(C)
5C THC Chapter 382, SubChapter D 382.085(b)
Description: Failure to submit the deviation report dated November 6, 2006 within 30 days after
the end of the reporting period.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
FMC CORPORATION
RN100215417**

§ **BEFORE THE**
§
§ **TEXAS COMMISSION ON**
§
§ **ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2007-1530-AIR-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding FMC Corporation ("FMC") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and FMC appear before the Commission and together stipulate that:

1. FMC owns and operates a petrochemical manufacturing plant at 12000 Bay Area Boulevard in Pasadena, Harris County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and FMC agree that the Commission has jurisdiction to enter this Agreed Order, and that FMC is subject to the Commission's jurisdiction.
4. FMC received notice of the violations alleged in Section II ("Allegations") on or about September 3, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by FMC of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Five Thousand Six Hundred Fifty Dollars (\$5,650) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). FMC has paid Two Thousand Two Hundred Sixty Dollars (\$2,260) of the administrative penalty

and One Thousand One Hundred Thirty Dollars (\$1,130) is deferred contingent upon FMC's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If FMC fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require FMC to pay all or part of the deferred penalty. Two Thousand Two Hundred Sixty Dollars (\$2,260) shall be conditionally offset by FMC's completion of a Supplemental Environmental Project.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and FMC have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that FMC has implemented the following corrective measures at the Plant:
 - a. Submitted the deviation report for the February 27 to August 26, 2006 deviation reporting period to the TCEQ Houston Regional Office ("HRO") on September 28, 2006 and submitted the deviation report for the August 27, 2006 to February 27, 2007 reporting period on May 7, 2007. The annual compliance certification ("ACC") for Federal Operating Permit ("FOP") No. O-02278 for the February 28, 2006 to February 27, 2007 certification period was submitted to the HRO on May 7, 2007; and
 - b. Developed and implemented procedures to ensure that semi-annual deviation reports and annual compliance certifications are submitted within the required timeframes, as documented by a letter dated September 17, 2007 which was received by the HRO on September 18, 2007.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Plant, FMC is alleged to have failed to timely submit the ACC and associated deviation reports within 30 days after each reporting period, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4), 122.145(2)(C), and 122.146(2); FOP No. O-02278, General Terms and Conditions; and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on August 20, 2007. Specifically, the annual compliance certification for FOP No. O-02278 and associated deviation report for the period ending February 27, 2007 was not submitted to the TCEQ Houston Regional Office until May 7, 2007. The report for the deviation period ending August 26, 2006 was not submitted until September 28, 2006.

III. DENIALS

FMC generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that FMC pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and FMC's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: FMC Corporation, Docket No. 2007-1530-AIR-E" to:

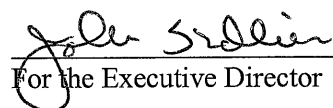
Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. FMC shall implement and complete a Supplemental Environmental Project ("SEP") in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Two Thousand Two Hundred Sixty Dollars (\$2,260) of the assessed administrative penalty shall be offset with the condition that FMC implement the SEP defined in Attachment A, incorporated herein by reference. FMC's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. The provisions of this Agreed Order shall apply to and be binding upon FMC. FMC is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.

4. If the FMC fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, FMC's failure to comply is not a violation of this Agreed Order. FMC shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. FMC shall notify the Executive Director within seven days after FMC becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by FMC shall be made in writing to the Executive Director. Extensions are not effective until FMC receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against FMC in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to FMC, or three days after the date on which the Commission mails notice of the Order to FMC, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

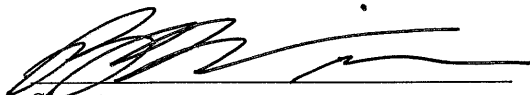
2/7/2008
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

11/28/07
Date

Brian Wimer

Name (Printed or typed)
Authorized Representative of
FMC Corporation

Resident Manager

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

Attachment A
Docket Number: 2007-1530-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	FMC Corporation
Payable Penalty Amount:	Four Thousand Five Hundred Twenty Dollars (\$4,520)
SEP Amount:	Two Thousand Two Hundred Sixty Dollars (\$2,260)
Type of SEP:	Pre-approved
Third-Party Recipient:	Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program
Location of SEP:	Harris County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent will contribute to Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program in Harris County. The contribution will be used in accordance with the ***Supplemental Environmental Project Agreement between the Houston-Galveston AERCO and the Texas Commission on Environmental Quality***.

SEP monies will be used to aid local school districts and area transit agencies in reaching local match requirements mandated by the Federal Highway Administration's ("FHWA") Congestion Mitigation/Air Quality funding program. SEP monies will be disbursed to school districts and transit agencies in need of funding assistance in the Houston-Galveston non-attainment area. Those SEP monies will be used exclusively by the school districts and transit agencies as supplements to meet the local match requirements of the EPA. SEP monies will be used to pay for the cost of replacing older diesel buses with alternative fueled or clean diesel buses. The old buses will be permanently retired and only sold for scrap. The schools and transit agencies will also use the SEP monies to retrofit more buses to reduce emissions. Houston-Galveston AERCO will send the TCEQ verification in the form of paid invoices and other documentation to show that the retrofits were completed. Retrofit technologies include particulate matter traps, diesel particulate matter filters, NOx reduction catalyst technology in combination with diesel particulate filters, and other emission control technologies that are developed and approved by EPA or the California Air Resources Board.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing particulate emissions on buses by more than 90% below today's level and reducing hydrocarbons below measurement capability.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Houston-Galveston Area Council
Houston-Galveston AERCO
P.O. Box 22777
Houston, Texas 77227-2777

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Texas Commission on Environmental Quality
Financial Administration Division, Revenues
Attention: Cashier, MC 214
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

